

SILVERMAN & ASSOCIATES | ATTORNEYS
AT LAW

October 23, 2020

VIA ECF

The Honorable Colleen McMahon
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: J.T. v. de Blasio, No. 1:20-cv-5878 (CM) (S.D.N.Y.)

Dear Judge McMahon:

We represent several school district Boards of Education in the Hudson Valley area of New York. We write this letter in conjunction with Adam Kleinberg, Esq., of Sokoloff Stern, LLP, who represents many school district Boards of Education in Long Island, including the Eastport-South Manor Central School District ("Eastport-South Manor") and Western Suffolk BOCES ("Western Suffolk").

Mr. Kleinberg and I have recently learned that the plaintiffs' counsel is contacting school districts directly, by email, to request that they provide them with Medicaid information. The email requests copies of the districts' 2018-2019, 2019-2020 and 2020-2021 school years' submissions for federal and state Medicaid reimbursements or payments of special education and related services through the Medicaid Management Information System (MMIS) as well as the Forms CMS-37 and CMS-64 filed with CMS Data Center and the Medicaid database. The email specifically notes that it relates to the "national class action" and that, if the district is represented, that the email be forwarded to its counsel. Copies of the emails received by the Eastport-South Manor and Western Suffolk BOCES are attached.

We do not accuse the plaintiffs' counsel of any impropriety. We do wish to note, however, that the plaintiffs' counsel's request seems to be quite similar to the New York City schools information requested in the subpoenas that were submitted to your Honor to be "So Ordered." (Docket Entry No.: 175). The Court denied the plaintiffs' request to so order the subpoenas and ruled that there will be "No discovery of any sort until all motions are decided." (Docket Entry No.: 179). The requests in the emails seem to be seeking the same information that the Court has ruled need not be provided with respect to New York City.

While we acknowledge that the most recent email requests are not formal "discovery," we believe that requesting this information from school districts who are awaiting the Court's direction following the pending motions will engender confusion. We wish to avoid any unnecessary actions or confusion while the Court is considering the pending motions. We respectfully request that the Court issue an Order directing the plaintiffs' counsel from making any direct contact with any school district regarding the case while the motions are pending before the Court.

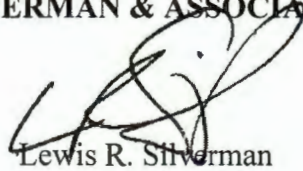
10/26/2020
Let me be clear: Plaintiff's counsel is to take NO steps outside of the Federal Rule 7 Civil Procedure, to obtain information to use in the presentation of this case. No dependent need reply to any such request.

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Thank you for your consideration of this matter.

Respectfully yours,

SILVERMAN & ASSOCIATES



Lewis R. Silverman

SOKOLOFF STERN, LLP



Adam I. Kleinberg

LRS/AIK/hj
Attachment

cc: All Counsel of Record (Via ECF)